

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON**

UNITED STATES OF AMERICA,

v.

IVAN ZARATE-ALVARADO,

Defendant.

Case No. 3:13-cr-0317-SI

OPINION AND ORDER

Ivan Zarate-Alvarado, 75425-065, TAFT CORRECTIONAL INSTITUTION, Inmate
Mail/Parcels, Post Office Box 7001, Taft, CA 93268. *Pro se*.

Billy J. Williams, Interim United States Attorney, and Scott M. Kerin, Assistant United States
Attorney, UNITED STATES ATTORNEY'S OFFICE, 1000 S.W. Third Avenue, Suite 600,
Portland, OR 97204. Of Attorneys for the United States of America.

Michael H. Simon, District Judge.

Before the Court is Defendant's motion under 28 U.S.C. § 2255 to vacate, set aside, or
correct his sentence. Defendant requests that the Court grant him a two-level reduction in his
sentence based upon United States Sentencing Guidelines ("Guidelines") Amendment 782.
Because the relief sought by Defendant is appropriately brought as a motion for a sentence
reduction under 18 U.S.C. § 3582(c)(2), the Court construes Defendant's motion as such.

On November 1, 2014, the Sentencing Commission issued Amendment 782 to the Guidelines. U.S.S.G. Manual App'x C, Amend. 782 (2014). Amendment 782 reduces base offense levels by two for certain drug crimes, including the crimes of which Defendants were convicted. The Sentencing Commission determined that Amendment 782 would have retroactive application, but stayed its retroactive effect until November 1, 2015.

Defendant was sentenced on June 30, 2015. In calculating the Guidelines range for Defendant's sentence, the new drug offense levels under Amendment 782 were used. Thus, Defendant has already received the benefit of Amendment 782. Accordingly, Defendant's motion to reduce his sentence (Dkt. 93) is denied.

IT IS SO ORDERED.

DATED this 23rd day of December, 2015.

/s/ Michael H. Simon
Michael H. Simon
United States District Judge